

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

John W. Gebo

v.

Civil No. 11-cv-047-JD

Robert Thyng

**O R D E R**

John Gebo, prisoner proceeding pro se, has filed this civil rights action (doc. no. 1), pursuant to 42 U.S.C. § 1983, alleging violations of his Eighth and Fourteenth Amendment rights. The matter is before me for preliminary review to determine, among other things, whether the complaint states any claim upon which relief might be granted. See 28 U.S.C. § 1915A(a); United States District Court for the District of New Hampshire Local Rule ("LR") 4.3(d)(2).

As fully explained in a report and recommendation issued simultaneously with this order, the court finds that Gebo has stated an Eighth Amendment claim upon which relief might be granted alleging that defendant Robert Thyng failed to protect him from a serious risk of harm. The court also recommended that a claim alleging a due process violation be dismissed. As Gebo has stated a claim upon which relief might be granted, the court now directs that the complaint (doc. no. 1) be served on defendant Thyng.

The Clerk's office is directed to serve the New Hampshire Office of the Attorney General ("AG"), as provided in the Agreement on Acceptance of Service, copies of this Order and the complaint (document no. 1). See LR 4.3(d)(2)(C). Within thirty days from receipt of these materials, the AG will submit an Acceptance of Service notice to the court specifying whether the defendant has authorized the AG's office to receive service on his behalf. When the Acceptance of Service is filed, service will be deemed made on the last day of the thirty-day period. If the defendant does not authorize the AG's office to receive service on his behalf, or the AG declines to represent him, the AG shall, within thirty days from receipt of the aforementioned materials, provide the last known address of the defendant. The Clerk's office is instructed to complete service on the defendant by preparing and issuing a summons for the defendant and forwarding the complaint (document no. 1) and this Order, to the United States Marshal's Office to effect service pursuant to Fed. R. Civ. P. 4 and 28 U.S.C. § 1915(d).

Defendant is instructed to answer or otherwise plead within twenty days of acceptance of service. See Fed. R. Civ. P. 12(a)(1)(A).

Plaintiff is instructed that all future pleadings, written motions, notices, or similar papers shall be served directly on

the defendant by delivering or mailing the materials to him or his attorney, pursuant to Fed. R. Civ. P. 5(b).

**SO ORDERED.**

A handwritten signature in black ink, appearing to be 'L. McCafferty', written over a horizontal line.

Landya B. McCafferty  
United States Magistrate Judge

Date: August 2, 2011

cc: John W. Gebo, pro se

LBM:jba